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MAY 9 2019

UNDER SEAL

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA

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AFFIDAVIT IN SUPPORT OF APPLICATION FOR CRIMINAL COMPLAINT

I, Erik Gudmundsen, being first duly sworn, hereby depose and state as follows:

INTRODUCTION AND AGENT BACKGROUND

1. I am a Special Agent with the Federal Bureau of Investigation (FBI), and have been since December 2017. I am currently assigned to work cyber and organized crime investigations to include major theft, money laundering, computer intrusions, Internet fraud, wire fraud, bank fraud, and financial institution fraud within the Norfolk, Virginia Division. My experience includes the investigation of cases involving the use of computers and the Internet to defraud, illegally access computers, and commit financial institution fraud. I have received law enforcement training in the investigation of criminal violations of federal law within the jurisdiction of the FBI, and have received specialized training in the investigation of computer-related crimes. Additionally, I have received training and gained experience in arrest procedures, search warrant applications, the execution of searches and seizures, and various other criminal laws and procedures. I have participated in the execution of search warrants, including those involving the search and seizure of computers and telephonic devices.

2. As a federal agent, I am authorized to investigate violations of laws of the United States and to execute warrants issued under the authority of the United States.

3. I have conducted an investigation of the offenses described in this affidavit. As a result of my investigation, a review of reports made by other law enforcement officers, and

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in speaking with other law enforcement officers who have been involved in the investigation, I am familiar with the circumstances of this on-going investigation. I have not included each and every fact known to me in this affidavit, but only the facts I believe are necessary to establish probable cause to believe PEDRO EMILIO DURAN (aka PEDRO EMILIO DURAN ROMAN) has engaged in the crime of conspiracy to commit wire fraud, in violation of 18 U.S.C. § 1349, and aggravated identity theft, in violation of 18 U.S.C. § 1028A.

PERTINENT FEDERAL CRIMINAL STATUTES

4. 18 U.S.C. § 1344 provides whoever knowingly executes, or attempts to execute, a scheme or artifice to defraud a financial institution; or to obtain any of the moneys, funds, credits, assets, securities, or other property owned by, or under the custody or control of, a financial institution, by means of false or fraudulent pretenses, representations, or promises, shall be punished.

5. 18 U.S.C. § 1349 provides any person who attempts or conspires to commit any offense under Chapter 63 of Title 18 of the United States Code, which includes Bank Fraud under 18 U.S.C § 1344, shall be punished.

6. 18 U.S.C. §1028A provides whoever, during and in relation to any felony violation enumerated, including Bank Fraud and Conspiracy under 18 U.S.C. §§ 1344 and 1349, knowingly transfers, possesses, or uses, without lawful authority, a means of identification of another person, shall be punished.

CASE BACKGROUND

7. The Norfolk Field Office of the Federal Bureau of Investigation and the Northampton County Sheriff's Office are investigating allegations that multiple individuals are involved in gas pump skimming. Losses exceed \$50,000, with attempted fraudulent transactions

exceeding an additional \$20,000. Dozens of victims have been identified from eight states, including Virginia, Maryland, Georgia, New York, New Jersey, Minnesota, Pennsylvania, and North Carolina, with 13 of those victims located in the Eastern District of Virginia.

8. Beginning on or about April 23, 2018, multiple victims reported to the Northampton County Sheriff's Office their bank cards were used to obtain cash fraudulently from two ATM locations. Investigation by the Northampton County Sheriff's Office revealed that all the victims had used their debit or credit cards (bank cards) attached to their respective bank accounts at a Shore Stop gas station located at 22177 Lankford Highway in Cape Charles, Virginia, where skimming devices had been placed within two of the gas pumps on either April 19 or 20, 2018.

9. Cape Charles is within the Eastern District of Virginia.

10. Law enforcement physically retrieved the skimming devices used by the subjects on the gas pumps at the Shore Stop gas station. The skimming devices were capable of wirelessly transmitting information captured from the bank cards, including the bank card number, PIN or access code, and bank account holder's name, to the subjects who placed the skimming devices and collected the information from the devices.

11. Investigation revealed the subjects created fraudulent cards using the information stolen from the bank cards. The subjects used the fraudulent cards to obtain cash using multiple methods. The first method involved utilizing ATMs with a cloned bank card to request money. A second method involved loading prepaid Visa and Mastercards with funds available on a cloned bank card. A third method involved purchasing items in a store, and then requesting cash back after purchases were made. The latter two methods were frequently carried out in the self-checkout lines of grocery stores, where, based on my experience and in talking with other law

enforcement officials familiar with these types of schemes, employees are less likely to scrutinize the subjects and their actions.

12. There were multiple banks whose customers' bank cards and bank information were compromised by the skimming devices. These banks are insured by the FDIC and incurred numerous monetary losses based on the targets' use of the stolen bank card information and subsequent reimbursements to the victims. One of these banks was Sterling Savings Bank.

13. Investigation by the FBI and the Northampton County Sheriff's Office subsequently identified multiple members of an organized gang as being responsible for the criminal activity. The members (hereafter referred to as subjects) were involved in the above-described scheme to steal the bank card information and then acquire funds through fraudulent means, and appeared to be working in concert with one another. Combinations of the same subjects enter and exit stores during the same approximate timeframes, but interact with each other infrequently while in the stores. The subjects frequently use self-checkout stations next to each other in grocery stores. When at the self-checkout stations, the subjects are seen on surveillance video swiping multiple bank cards, and have been seen receiving cash dispensed at the self-checkout station. Some subjects in the group are also seen utilizing ATMs on surveillance video. The subjects have been known to target multiple Harris Teeter grocery stores in the Eastern District of Virginia and North Carolina in the same day. The subjects are captured on surveillance video in multiple locations during the timeframes when the stolen bank card information was utilized. The subjects appear to sometimes switch clothing, such as hats, presumably to change their appearance. The subjects have also been seen traveling together in vehicles identified as being used in furtherance of the criminal activity.

14. The subjects identified so far are:

- a. YARIEL MONSIBAEZ-RUIZ
- b. ARIEL MORA QUIJADA
- c. DENIS MONSIBAEZ-DIAZ and
- d. PEDRO EMILIO DURAN

PROBABLE CAUSE

YARIEL MONSIBAEZ-RUIZ

15. One of these conspirators, YARIEL MONSIBAEZ-RUIZ, is the brother of DENIS MONSIBAEZ-DIAZ. A subject identified as YARIEL MONSIBAEZ-RUIZ has been seen on video surveillance in a number of locations at the time where fraud has occurred. On April 21, 2018, a subject identified as YARIEL MONSIBAEZ-RUIZ is seen on video surveillance in Harris Teeter stores #51, #176, #369, and #378 in the Hamptons Roads area. In each store, he is wearing a blue baseball cap, and black hooded sweatshirt with red accents. In addition to these locations, YARIEL MONSIBAEZ-RUIZ is seen on video surveillance in five additional locations in Virginia, Maryland, and North Carolina between April 22, 2018, and May 14, 2018, including Harris Teeter stores #179 and #416 on May 14, 2018. When YARIEL MONSIBAEZ-RUIZ was arrested in North Carolina on May 14, 2018, he was wearing a black baseball cap, a red polo shirt, and blue pants. These clothing items appear to be the same pieces of clothing worn by YARIEL MONSIBAEZ-RUIZ, as seen on video surveillance at Harris Teeter stores #179 and #416, also located in North Carolina, on the same day.

ARIEL MORA QUIJADA

16. One of the conspirators, ARIEL MORA QUIJADA, appears on video surveillance in a number of locations where fraud has occurred. On May 14, 2018, a subject identified as ARIEL MORA QUIJADA is seen on video surveillance in Harris Teeter stores #179, #268, and

#416 in North Carolina. In each store, he is wearing a baseball cap with a dark brim and front panel, and the remainder of the hat is white. In addition, he is wearing a dark blue, form fitting t-shirt, and dark pants. When he was booked on May 14, 2018, ARIEL MORA QUIJADA was wearing a dark blue, form fitting t-shirt, and dark pants. In addition to the three locations from May 14, 2018, ARIEL MORA QUIJADA is seen on video surveillance in four additional locations in Virginia and North Carolina between April 21, 2018, and May 8, 2018, including Harris Teeter Store #369 in Virginia Beach, Virginia, within the Eastern District of Virginia.

DENIS MONSIBAEZ-DIAZ

17. A subject identified as DENIS MONSIBAEZ-DIAZ has been seen on video surveillance in a number of locations where fraud has occurred. On May 14, 2018, DENIS MONSIBAEZ-DIAZ is seen on video surveillance in Harris Teeter stores #99, #179, #268, and #416 in North Carolina. In each store, he is wearing a light blue and black colored University of North Carolina T-shirt, and tan shorts. When he was booked on May 14, 2018, DENIS MONSIBAEZ-DIAZ was wearing a light blue and black colored University of North Carolina T-shirt, and tan shorts. In addition to the four locations from May 14, 2018, DENIS MONSIBAEZ-DIAZ is seen on video surveillance in eight additional instances in Virginia, Maryland, and North Carolina between April 21, 2018, and May 8, 2018, including Harris Teeter Store #369 in Virginia Beach, Virginia.

PEDRO EMILIO DURAN

18. One of the conspirators, PEDRO EMILIO DURAN, the subject of this Affidavit, appears on video surveillance in a number of locations where fraud has occurred. On May 14, 2018, a subject identified as PEDRO EMILIO DURAN is seen on video surveillance in Harris Teeter stores #99, #179, #268, and #416 in North Carolina. In each store, he is wearing a white

t-shirt with a gray and a black stripe, which move horizontally across the belly area of the shirt, and then turn up and lead up to the left shoulder. In addition to the four locations from May 14, 2018, PEDRO EMILIO DURAN is seen on video surveillance in four additional locations in Virginia, including Harris Teeter store #369 in Virginia on April 21, 2018. This subject has also been seen on video surveillance wearing a blue Nike hat with a black Swoosh logo, which appears to be the same hat worn by the subject who appears to be YARIEL MONSIBAEZ-RUIZ on multiple occasions. Database searches revealed an identification photo for PEDRO EMILIO DURAN, who appears to be the subject seen in the surveillance footage.

19. On May 14, 2018, YARIEL MONSIBAEZ-RUIZ and conspirator ARIEL MORA QUIJADA, were arrested by the Mooresville, North Carolina Police Department after leaving the scene of a North Carolina Harris Teeter store. Another conspirator, DENIS MONSIBAEZ-DIAZ, was arrested inside the same Harris Teeter while using an ATM. All three subjects were arrested in connection with attempting transactions using a cloned debit card, and all three subjects pleaded guilty to charges in North Carolina state court. DENIS MONSIBAEZ-DIAZ plead guilty to Identity Theft and Obtaining Property by False Pretenses. ARIEL MORA QUIJADA and YARIEL MONSIBAEZ-RUIZ plead guilty to Identity Theft.

20. Prior to the arrest of the previously mentioned subjects, the subjects, including DURAN, made fraudulent purchases to receive cash back, and fraudulently loaded gift cards at Harris Teeter Stores #268, #369 and #416. To wit:

<u>Date</u>	<u>Place / Time</u>	<u>Stolen Card Account Used</u>	<u>Conspirators in Store</u>
5/14/2018	Harris Teeter #416 Cornelius, NC Purchases made between 3:02 PM – 3:14 PM	xxxxx6693 (DURAN) xxxxx2919 (rest of subjects) xxxxx5560 (rest of subjects) xxxxx1361 (rest of subjects) xxxxx2625 (rest of subjects)	<ul style="list-style-type: none"> • YARIEL MONSIBAEZ-RUIZ • DENIS MONSIBAEZ-DIAZ • ARIEL MORA QUIJADA • PEDRO EMILIO DURAN
<u>Purchases</u>			
<ul style="list-style-type: none"> • Entire Group: <ul style="list-style-type: none"> ○ Four purchases of \$500 Mastercard Gift Cards, for a total of \$2,000 ○ 11 purchases of between 1 and 3 items (typically toiletries, plasticware, and Red Bull drinks), with cash back of \$200 for each transaction, totaling \$2200 in cash back. • DURAN: <ul style="list-style-type: none"> ○ DURAN is responsible for one purchase and \$200 cash back at register 502, but the register was out of money. He received \$200 from an attendant in the self-checkout line, and then moved to register 503, where he conducted four more transactions with \$200 cash back, for a total of \$1,000 in cash back. DURAN purchased razor blades, sunscreen, and plates, totaling \$108.15, in addition to the cash back. Grand total \$1108 			

<u>Date</u>	<u>Place / Time</u>	<u>Stolen Card Account Used</u>	<u>Conspirators in Store</u>
5/14/2018	Harris Teeter #268 Davidson, NC Purchases made between 3:26 PM – 3:32 PM	xxxxx2919 (rest of subjects) xxxxx00321 (rest of subjects) xxxxx6693 (DURAN)	<ul style="list-style-type: none"> • DENIS MONSIBAEZ-DIAZ • ARIEL MORA QUIJADA • PEDRO EMILIO DURAN
<u>Purchases</u>			
<ul style="list-style-type: none"> • Entire Group: <ul style="list-style-type: none"> ○ 3 transactions of between 1 and 2 items (toiletries, snacks, and a Nerf football), with cash back of \$200 for each transaction, totaling \$600 in cash back. 			

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- **DURAN:**
 - DURAN is responsible for seven purchases and \$200 cash back during each transaction, totaling \$1,400, at register 500. DURAN purchased razor blades, shaving cream, Kit Kat bars, and a Snickers bar, totaling \$80.79, in addition to the cash back. Grand total \$1480.79

<u>Date</u>	<u>Place / Time</u>	<u>Stolen Card Account Used</u>	<u>Conspirators in Store</u>
4/21/2018	Harris Teeter #369 Virginia Beach, VA Purchases made between 12:00 PM – 12:35 PM	xxxxx7570 (rest of subjects) xxxxx3559 (rest of subjects) xxxxx6924 (rest of subjects) xxxxx5924 (DURAN)	<ul style="list-style-type: none"> • YARIEL MONSIBAEZ RUIZ • DENIS MONSIBAEZ-DIAZ • ARIEL MORA QUIJADA • PEDRO EMILIO DURAN
Purchases			
<ul style="list-style-type: none"> • Others in Group: <ul style="list-style-type: none"> ○ 11 purchases of between 1 and 2 items (toiletries, cables), with cash back of \$200 for each transaction, totaling \$2200 in cash back. • DURAN: <ul style="list-style-type: none"> ○ DURAN is responsible for five, one-item purchases and \$200 cash back during each transaction, totaling \$1,000, at register 500. 			

CONCLUSION

21. Based on the information and evidence set forth above, I respectfully submit that there is probable cause to believe that PEDRO EMILIO DURAN has committed the following offenses: COUNT ONE: from on or about April 19, 2018 to on or about May 13, 2018, within the Eastern District of Virginia and elsewhere, defendant PEDRO EMILIO DURAN knowingly and unlawfully combined, conspired, confederated, and agreed with each other and with other persons, known and unknown, to execute, and attempt to execute, a scheme and artifice to defraud to obtain moneys, funds, and property owned by, and under the custody and control of, a financial institutions, including Sterling Savings Bank, by means of false and fraudulent

pretenses, representations, and promises, in violation of 18 U.S.C. § 1344, all in violation of 18 U.S.C. § 1349¹; COUNT TWO: On or about April 21, 2018, in the Eastern District of Virginia and elsewhere, defendant PEDRO EMILIO DURAN, aided, abetted, induced, counseled, and encouraged by each other and others unknown, did knowingly and unlawfully possess and use without lawful authority, the means of identification of the bank card number of J.S. in relation to felony violations contained in Chapter 63 of Title 18 of the United States Code (that is, Conspiracy to Commit Bank Fraud, in violation of Title 18, United States Code, Section 1349), in violation of 18 U.S.C. § 1028A.

22. Accordingly, I request that a complaint and arrest warrant be issued charging PEDRO EMILIO DURAN with such offenses.

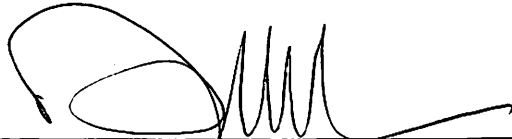
FURTHER AFFIANT SAYETH NOT.

Respectfully submitted,



Erik Gudmundsen
Special Agent
Federal Bureau of Investigation

Subscribed and sworn to before me on May 7, 2019



UNITED STATES MAGISTRATE JUDGE
Douglas E. Miller
United States Magistrate Judge

¹ The object of the scheme and artifice to defraud was for the conspirators to obtain funds fraudulently via the use of illegally obtained bank card numbers to withdraw funds using those bank card numbers.